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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,294	12/12/2003	Raymond C. Kurzweil	14202-002001	9946

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EXAMINER	
SAADAT, CAMERON	
ART UNIT	PAPER NUMBER
3714	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/26/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/735,294	KURZWEIL, RAYMOND C.	
	Examiner	Art Unit	
	Cameron Saadat	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on *17 August 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *8/17/2006*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

In response to amendment filed 8/17/2006, claims 1-14 and newly added claims 15-20 are pending in this application.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-4, 7-10, and 13-17, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abbasi (USPN 6,786,863) in view of Choy et al. (USPN 6,695,770; hereinafter Choy).

This holding, incorporated herein, is maintained from the prior action for the cited claims as amended. Response to the applicant's remarks are provided below and incorporated herein.

Regarding claims 1, 9, and 15 Abbasi discloses a virtual encounter system and method comprising, a mannequin having life-like features, the mannequin further comprising: a simulated human body part 55; a camera 35a-b coupled to the body for sending video signals to a communications network 30; and a microphone 40a-b coupled to the body for sending audio signals over the communications network; a display to render the video signals received from the camera and a transducer to transduce the

audio signals received from the microphone (See Col. 2, lines 54-67). Abbasi discloses all of the claimed subject matter with the exception of explicitly disclosing the feature of providing a video display in the form of goggles. However, it is the examiner's position that providing a head mounted display is old and well known in a virtual reality environment. In addition, Choy teaches a virtual reality system wherein users are provided with their own headsets for displaying images and sound (See Choy, Col. 3, lines 1-6; Fig 1, headset output) to provide images of a person with whom the user wishes to fantasize. In view of Choy, it would have been obvious to one of ordinary skill in the art to modify the display described in Abbasi, by providing a head mounted display/goggles in order to enhance the reality of a virtual environment by allowing a user to fantasize about a person displayed in the headset display.

Regarding claims 2 and 16, Abbasi discloses a system wherein the mannequin is at a first location with the camera being a first camera and the microphone being a first microphone and the display being the first display, the system further comprising: a second mannequin in the second different location, the second mannequin having a second microphone and a second camera; and a second display to receive the video signals from the first camera and a second earphone to receive the audio signals from the first microphone (See Col. 4, lines 37-47; Fig. 1).

Regarding claims 3 and 17, Abbasi discloses a system wherein the communications network comprises: a first communication gateway in the first location; and a second communication gateway in the second location, the second processor connected to the first processor via a network (See Col. 3, lines 6-8).

Regarding claim 4, Abbasi discloses a system wherein the communications network comprises an interface having one or more channels for: receiving the audio signals from the microphone; receiving the video signals from the camera; sending the audio signals to the display; and sending the audio signals to the transducer (See Col. 4, lines 37-47; Fig 1).

Regarding claims 7, 13, and 20, Abbasi discloses a system wherein the display comprises a receiver to receive the video signals (See Col. 2, lines 54-67).

Regarding claims 8 and 14, Abbasi does not explicitly disclose the feature of providing a transmitter to wirelessly send the audio signals and the video signals to the communications network from the mannequin. However, Choy teaches a virtual reality system comprising a mannequin, wherein data is wirelessly transmitted from the mannequin to a communications network (See Col. 9, lines 5-15). Thus, in view of Choy, it would have been obvious to one of ordinary skill in the art to modify the transmission of data described in Abbasi, by providing a wireless transmission of data with the mannequin, in order to provide a more realistic untethered mannequin.

Regarding claim 10, Abbasi discloses a method further comprising: sending audio signals to the communications network from a second microphone coupled to a second mannequin having life-like features; sending video signals to the communications network from a second camera coupled to the second mannequin; rendering the video signals received from the communications network onto a monitor coupled to a second display; and transducing the audio signals received from the communications network using a second transducer of a second display (See Col. 2, lines 54-67; Col. 4, lines 37-47; Fig.1).

Claims 5-6, 11-12, and 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abbasi (USPN 6,786,863) in view of Choy et al. (USPN 6,695,770; hereinafter Choy), further in view of Gutierrez (USPN 5,111,290).

This holding, incorporated herein, is maintained from the prior action for the cited claims as amended. Response to the applicant's remarks are provided below and incorporated herein.

The combination of Abbasi and Choy discloses all of the claimed subject matter with the exception of explicitly disclosing the feature of (as per claims 5, 11, and 18) positioning the camera in the eye socket of the body; (as per claims 6, 12, and 19) positioning the microphone in an ear canal of the

simulated body. However, Gutierrez teaches a virtual mannequin comprising a video camera concealed in the eye socked of the mannequin (Col. 1, lines 57-65). In view of Gutierrez, it would have been obvious to one of ordinary skill in the art to modify the placement of the mannequin camera and microphone described in the combination of Abbasi and Choy, by concealing them within the mannequin and thereby avoiding the unattractive appearance of the camera and microphone.

Response to Arguments

The provisional double patenting rejection under 35 U.S.C. 101 set forth in the previous office action is hereby withdrawn, in view of applicant's response. Applicant emphasizes that a clear line of demarcation will be maintained between the applications 10/735,595, 10/734,618, 10/734,616, and 10/734,617.

Applicant's arguments filed 8/17/2006 have been fully considered but they are not persuasive. Applicant purports that nowhere does Abbasi discloses a mannequin having life-like features; arguing that Abbasi appears to merely teach replicas of human components. The examiner disagrees. Claims are given their broadest reasonable interpretation in light of the supporting disclosure. In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim are not read into the claim. In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969). See also In re Zletz, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989). It is noted that according to Merriam-Webster online dictionary, "mannequin" is defined as: a form representing the human figure used especially for displaying clothes. Accordingly, Abbasi discloses human lip surrogate 62 comprising a human lip model, mouth cavity 80 having teeth, and facial hair (See Col. 5, lines 10-26; Fig. 2). Thus, it is the examiner's position that human lip surrogate described in Abbasi is a form representing part of a human figure. It is further noted that the claims do not include a limitation that requires an entire human figure. Even if the term mannequin were to be interpreted to require an entire human body representation, Choy discloses a virtual encounter system that includes

mannequins or life-sized dolls with artificial male or female genitalia, in order to have a sexual experience with a virtual human (See Choy, Col. 2, lines 4-22). Therefore, if Abbasi's surrogate human parts are not considered mannequins, it would have been an obvious modification for one of ordinary skill in the art in light of Choy's teachings.

Applicant additionally emphasizes that Abbasi does not teach a set of goggles and Choy does not cure this deficiency. The examiner disagrees. Abbasi discloses all of the claimed subject matter with the exception of explicitly disclosing the feature of providing a video display in the form of goggles. However, it is the examiner's position that providing a head mounted display is old and well known in a virtual reality environment. In addition, Choy teaches a virtual reality system wherein users are provided with their own headsets for displaying images and sound (See Choy, Col. 3, lines 1-6; Fig 1, headset output) to provide images of a person with whom the user wishes to fantasize. In view of Choy, it would have been obvious to one of ordinary skill in the art to modify the display described in Abbasi, by providing a head mounted display/goggles in order to enhance the reality of a virtual environment by allowing a user to fantasize about a person displayed in the headset display.

It is further asserted by applicant that the motivation to combine Abbasi, Choy and Gutierrez is not sufficient, since Gutierrez is directed to a surveillance system, and placement of the camera in Gutierrez is for the purpose of concealment, not to avoid an unattractive appearance. The examiner disagrees. The standard of patentability is what the prior art, taken as a whole, suggests to an artisan at the time of the invention. *In re Merck & Co., Inc., 800 F.2d 1091,1097, 231 USPQ 375, 379 (Fed. Cir. 1986).* The question is not only what the references expressly teach, but what they would collectively suggest to one of ordinary skill in the art. *In re Simon, 461 F.2d 1387, 1390, 174 USPQ 114, 116 (CCPA 1972).* In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to

do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the combination of Abbasi and Choy discloses all of the claimed subject matter with the exception of explicitly disclosing the feature of (as per claims 5 and 11) positioning the camera in the eye socket of the body; (as per claims 6 and 12) positioning the microphone in an ear canal of the simulated body. However, Gutierrez teaches a virtual mannequin comprising a video camera concealed in the eye socked of the mannequin (Col. 1, lines 57-65). In view of Gutierrez, it would have been obvious to one of ordinary skill in the art to modify the placement of the mannequin camera and microphone described in the combination of Abbasi and Choy, by concealing them within the mannequin and thereby avoiding the unattractive appearance of the camera and microphone.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cameron Saadat whose telephone number is (571) 272-4443. The examiner can normally be reached on M-F 9:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Cameron Saadat
April 24, 2007

Robert E Pezzuto
Supervisory Patent Examiner
Art Unit 3714